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Rights and Protection of Women and Children in India: A Public Issue

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ABSTRACT

Being a nation with a wide range of cultures and religious beliefs, INDIA produces a wide range of cultural, religious, and social behaviors. Any nation must place a high priority on the concrete protection of its citizens' human rights. The protection, rights and empowerment of women and children are important concerns for the Indian government. The major issues affecting women in India must be addressed in order to reduce the growing injustice toward them. To that end, many programmes and schemes have been put in place. But Gender bias always plays a negative role in terms of women and children. we have proper enacted laws for the protection of women and children, constitutional laws, legislations still our society i.e. women and children faces those situation which leads to the problems like- girls become exposed to the possibility of child marriage, pregnancy at teenage level, child labor, poor education and health, sexual harassment, exploitation and violence against women. This research Paper trying to brings out the constitutional amendments, legislations which were enacted by Government to ensure their safety and security and equal progress in attainment of equal rights for the welfare of the being which facilitate the women empowerment and welfare of the children.

Keywords: *India, Women Empowerment, Gender inequality, Violations against women, Children, Government Schemes, Legislations.*

I. INTRODUCTION

One and only step to achieving equality is to eradicate the concept of discrimination among men and women are the basic fundamental human rights and united national values. All over the world, a woman faces/experiencing violence, whether physically or mentally, whether in terms of her rights or the way of leading a family. Around the world, women and children face the gender biasness where they are unable to enjoy the same rights as men do. Therefore, the issue of equality is broader. Achieving equality between women and men requires a comprehensive understanding of the ways in which women experience discrimination and are deprived of equality so as to develop appropriate strategies and norms to eliminate such

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discrimination. Some groups of women experience additional forms of discrimination, based on their age, ethnicity, nationality, religion, health status, marital status, education, disability and socio-economic status. Women and children face brutal situations each day. Harsh acts like child labor, slavery, forced marriage, and prostitution are suffered by millions. Child labor is full-time employment of children who are under the minimum legal age. But in spite of legislation framed by the government, provisions women and children's rights is one of the biggest issues which every class of society is facing. Women and children have an important role to play in society. In spite of the fact that women's contribution to the progress of the country is equal to that of their male counterparts, they still experience a number of limitations that restrict them from realizing their potential for growth. It was against this perspective that governments all over the world felt the need to prioritize the needs and interests of women and recognize their contribution in various stages and overcome impediments that would take place within the course of their empowerment.

II. HISTORICAL WOMEN AND CHILDREN DEVELOPMENT

Traditionally India had seen a woman as a member of the family or a group and not as an individual with an identity or right of her own. The principle of equality of women and men has been basic to traditional Indian thinking and the Hindu religious philosophy. The story of Indian women is best conceptualized in terms of India's ancient history and mythology going back about 4000 years. In modern times, its subjugation as a colony and regeneration since 1945 as a free and democratic secular country. Historically Indian women are equal to men. The concept of woman as Shakti, the primal energy force, finds expression in the famous epic MAHABARATHA. In this epic woman is glorified as a "*light of the house, mother of the universe and supporter of the earth and all its forests*". The Mahabharata further says that there is no guru like the mother. In earlier Vedic, age a woman held higher and honored situation in gender relationship. Manu in his MANUSMRITI, who was the first to codify the laws in India, also write about this, "*Where women are verily honored, there the gods rejoice, where, however, they are not honored, there all sacred rites prove useless*".

In another epic RAMAYANA, when Rama intended to perform the Ashwamedha Yajana in the absence of Sita, the religious norms advised Rama to keep a golden status of his wife beside him during the ceremony. These epics through ages have become benchmark with which status of women is compared. While making comparison it is always said that as women participate equally along with men in the religious rituals so woman are equal to men. The most important issues that formed the base of social reforms during the freedom struggle were the abolition of

sati, widow remarriages, and restraint on child marriages and women's education. Thus, history tells us that the freedom struggle that interwoven around the question of gender equality, free India incorporated this principle in the constitution in 1950.

III. HUMAN RIGHTS: EQUAL STATUS

When we talk about rights the terms came into mind is human rights and fundamental rights both the terms are interconnected with each other, the human rights are the basic fundamental rights that we humans are entitled to. In the pandemic of Second World War United Nations adopted human rights. One of the members of united nation i.e. general assembly adopted the universal declaration of human rights² Its adoption led to recognizing human rights as the foundation for freedom, justice and peace for every individual. Although it's not legally binding, most nations have incorporated these human rights into their constitutions and domestic legal frameworks. Human rights safeguard us from discrimination and guarantee that our most basic needs are protected. Basic human rights includes right to life³, Right to Freedom from Torture, Right to Equal Treatment, Right to Privacy, Asylum, Marry, Freedom of thought, opinion, and expression, Right to work, Right to Education, Right to Social Services

All people are born free, with equal rights and respect. All men are created equal and that their Creator has endowed them with certain unalienable rights, as stated in the American Declaration of Independence. Similar to this, the Indian Constitution ensures and upholds fundamental rights for all citizens, regardless of caste, creed, religion, colour, sex, or nationality. Every person is born with these fundamental rights, often known as human rights, which are acknowledged throughout the world under articles 15, article 16, article 17, and article 18 which comes under the matter of equality which is one of the fundamental rights.

IV. VIOLENCE AND CRIMES AGAINST WOMEN AND CHILDREN

A person commits a crime when they do something wrong that needs to be punished by the law. There are always a few individuals in our society who are unable to restrain themselves from committing a crime against humanity. The offences included manslaughter, rape, and burglary. It is a major issue when someone purposefully causes bodily or mental harm to another person. This kind of conduct is unacceptable since it may have a devastating effect on the victim. Some people may commit crimes out of desperation, while others may do it in an effort to quickly

² Declaration of human rights 10 th December, 1948 available at....

³ THE INTERNATIONAL BILL OF HUMAN RIGHTS, <https://www.ohchr.org/sites/default/files/Documents/Publications/Compilation1.1en.pdf>/ LAST SEEN

accumulate wealth for their own survival. Each crime has a unique motivation, but this does not justify giving offenders a pass on their punishment. Several of the mentioned crimes

Dowry Death- Women are dying in their marriage houses more frequently in India as a result of dowry. Dowry disputes have grown to be a major issue. Around 8,233 newlywed women were reportedly murdered for dowry in 2012, according to the National Crime Records Bureau. The country views the taking and giving of dowries as crimes. The Dowry Prohibition Act's implementation in India has not been done well. It has been found that the majority of states do not require the keeping of records of gifts and receipts, nor do they have dowry prohibition officers.

Domestic Violence -Despite the Protection of Women from Domestic Violence Act of 2005, domestic violence has been widespread in India. When a woman suffers violent or illegal behavior from her husband, in-laws, dads, brothers, or other family members, this is referred to as domestic abuse. These involve mistreating someone through numerous means, including verbal and physical abuse. There are many reasons why women experience domestic violence in their marital homes, including an inability to handle household duties properly; financial difficulties; a desire for a male child; women's ignorance and illiteracy; difficulty meeting basic needs and requirements; health issues; and feelings of hostility and resentment.

Sati - Sati is a custom in which widows were burned alive in their husbands' funeral pyres. Raja Ram Mohan Roy, a social reformer, ended this practice. In post-colonial India, it is still in use. The Sati Prevention Act, which made the practice of Sati a crime for which the offenders might also get the death penalty, was passed. The law further said that it is forbidden to venerate Sati by building a temple or to treat the deceased as a deity. However, some people view this regulation as an infringement on their freedom to practice their faith as they see fit.

Child Marriage – When females get married before they are 18 and when boys get married before they get 21, it's called child marriage. The practise of child marriage is seen to rob children of their childhood. They encounter difficulties receiving an education, enrolling in school, enjoying other childhood activities, and developing their skills and abilities. Additionally, it negatively impacts the child's social, psychological, and emotional growth. Children feel vulnerable and uneasy when they witness domestic violence in their married households. In accordance with the Child Marriage Act of 2006, boys and girls must be 21 and 18 years old, respectively, to get married..⁴

⁴ The_Practice_of_Child_Marriage_in_India available at <https://www.researchgate.net/publication>

Education – One of the most important factors that will result in the empowerment of women is education. The Indian constitution Article 21 guarantees everyone the right to an education, hence the government is required to guarantee free education to everyone. Girls drop out of school at higher grade levels for a variety of reasons, and their retention in school is lower in rural regions than it is for boys. In higher education, parents' inability to pay for college owing to financial difficulties is the main factor that causes students to drop out. Parents train their daughters to take care of their younger siblings while they are at work and expect them to do home tasks.

Rape - The number of rape cases in India has significantly increased during the last ten years. Rape typically occurs because of hostility, hate, resentment, or any other motive. The National Crime Records Bureau reports that there were 25,000 documented rape cases in 2012. The upper caste people in India use mass rapes as a tactic to exert control over the members of the lower caste groups in the rural areas, especially in Northern India. A tougher law, known as the Criminal Law (Amendment) Act 2013, was passed in response to the violent gang rape case that occurred in Delhi in December 2012.⁵

V. FUNDAMENTAL RIGHTS TO ADVANCE WOMEN'S AND CHILDREN'S STATUS

The following is a list of the Articles under Part III of the Indian Constitution's Fundamental Rights that aim to advance women's and children's position and give them equal chances. - In accordance with the Indian Constitution, all people, including women, are treated equally in the eyes of the law and are entitled to equal protection under the law within India's geographical jurisdiction. It means that everyone should be treated equally under similar conditions, regardless of gender. The State ought to treat everyone equally and ought not to engage in any form of discrimination..⁶

Article 15 of the Indian Constitution prevents the state from discriminating against any person, on the basis of race, caste, gender, ethnicity, religion, place of birth, or socioeconomic status. It declares that all citizens have the right to enjoy equal rights with relation to access to public spaces, infrastructure, hotels, restaurants, stores, and other services. However, the state is free to create any special arrangements for women, children, scheduled castes, scheduled tribes, and other underprivileged groups.

⁵ Jain, G. (2020) *Rapes in India: Reasons and prevention*, *iPleaders*. Available at: <https://blog.ipleaders.in/rapes-india-reasons-prevention> (Accessed: January 21, 2023).

⁶ Article 14 of Indian constitution

All people, including women, would have equal opportunity in areas of public employment, regardless of their gender, races, castes, ethnicities, faiths, and socioeconomic origins, according to Article 16 of the Indian Constitution. There are several exceptions, such as when the government may declare by legislation that a particular job necessitates a resident of the state. The State has the authority to designate some positions for members of underprivileged groups, as well as for members of scheduled castes and scheduled tribes. Positions associated with a particular religion may also be designated for members of that religion.

According to Article 17 of the Indian Constitution, the untouchability system has been abolished, and the Untouchability (offence) Act of 1955 has been passed by the legislature. The Untouchability (offence) Amendment Act of 1976 updated this law to make it stricter and to eradicate untouchability from society.

In accordance with Article 19 of the Indian Constitution, all citizens, including women, have the freedom to speak and express themselves, to assemble in peace without weapons, to form unions or associations, to move freely throughout the nation, to live or establish a permanent residence anywhere in the nation, to engage in any occupation or conduct any lawful trade or business in accordance with their own goals.

No person should be deprived of life or personal liberty, except in accordance with the method established by law, according to Article 21 of the Indian Constitution. This right to life also involves the rights to privacy and to live in dignity. Because it undermines the dignity and respect of the victims, women, domestic violence against women also violates Article 21 of the Indian Constitution..⁷

According to Article 21A of the Constitution of India - The State shall provide free and compulsory education to all children, who are between the ages of six to fourteen years in a manner, as the state may determine by law.

In accordance with Article 20 of the Indian Constitution, no individual, including a woman, shall be found guilty of any crime, other than breaking the law, and no person shall be tried and punished more than once for the same offence. Any person should never be accused of a crime and should never be made to testify against themselves.

Article 23 of the Indian Constitution prohibits forced labour and the immoral trafficking of women, children, and other people. The Suppression of Immoral Trafficking of Women and

⁷ *Article 21 of the Constitution of India – Right to life and personal liberty* (no date) *Legal Service India - Law, Lawyers and Legal Resources*. Available at: <https://www.legalserviceindia.com/legal/article-1235-article-21-of-the-constitution-of-india-right-to-life-and-personal-liberty.html> (Accessed: January 21, 2023).

Girls Act, 1956, which is now known as the Immoral Trafficking (Prevention) Act, was passed by Parliament in accordance with this Article. As per Article 24 of the Constitution of India - Employment of children, below the age of fourteen years in factory or mine or engaged in any other hazardous employment is prohibited.

Under Article 25 of the Constitution of India - All persons including women, children are equally entitled to freedom of conscience and the right of freedom to profess, practice, and propagate religion. The labour laws in India, can be industry specific, region specific or centralized. The Acts have been stated as follows: (India: The Legal Framework for Women and Work, 2012).

VI. SPECIAL INITIATIVES / ACHIEVEMENTS FOR THE EMPOWERMENT OF WOMEN DURING THE NINTH PLAN ⁸

- Adoption of Women's Component Plan (WCP) to ensure that benefits from other developmental sectors do not by-pass women and not less than 30 per cent of funds/benefits flow to them from all the women-related sectors. Review of the progress of WCP during the Ninth Plan reveals that funds flowing from one of the women-related Departments (viz. Family Welfare) was as high as 70 per cent of its Gross Budgetary Support of the Ninth Plan; (1997) (Details are given in the Box on WCP)
- Launching of 'Swa-Shakti' to create an enabling environment for empowerment of women through setting up of self-reliant Self-Help Groups (SHGs) and developing linkages with lending institutions to ensure women's access to credit facilities for income-generation activities; (1998)
- 'Stree Shakti Puraskars' instituted for the first time in the history of women's development to honour 5 distinguished women annually for their outstanding contribution to the upliftment and empowerment of women; (1999)
- Setting up of a Task Force on Women under the Chairpersonship of Shri K.C.Pant, Deputy Chairman, Planning Commission to review the existing women-specific and women-related legislations and suggest enactment of new legislations or amendments, wherever necessary. The Task Force also suggested a thematic programme for celebrating the year '2001 as Women's Empowerment Year', besides reviewing 22 existing legislations; (2000)

⁸ Available at niti.gov.in/planningcommission.gov.in/docs/plans/planrel/fiveyr/10th/volume2

- Introduction of Gender Budgeting to attain more effective targetting of public expenditure and to offset any undesirable gender-specific consequences of previous budgetary measures; (2000-01)
- Adoption of a National Policy for Empowerment of Women to eliminate all types of discrimination against women and to ensure gender justice, besides empowering women both socially and economically; (2001)
- Celebration of the Year 2001 as ‘Women’s Empowerment Year’ to create awareness generation, remove negative thinking, besides building up confidence in women through the processes of conscientization so that they can take their rightful place in the mainstream of the nation’s social, political and economic life; (2001)
- Recasting of Indira Mahila Yojana as ‘Swayamsidha’, - an integrated programme for empowerment of women through a major strategy of converging the services available in all the women-related programmes besides organising women into SHGs for undertaking various entrepreneurial ventures; (2001)
- Launching of ‘Swadhar’ to extend rehabilitation services for ‘Women in Difficult Circumstances’; (2001)
- Introduction of a Bill on Domestic Violence against Women (Prevention) to eliminate all forms of domestic violence against women and the girl child; (2002)

VII. SPECIAL INITIATIVES/ACHIEVEMENTS FOR DEVELOPMENT OF CHILDREN DURING THE NINTH PLAN⁹

- Launching of Balika Samridhhi Yojana to extend a special package to girl children belonging to families living below the poverty line to ensure that all girl children enter into schools. Special incentives, viz. Rs. 500 to the mother and annual scholarships ranging from Rs. 300 to Rs. 1000 for girl children in classes I to X; (1997)
- Introduction of Kishori Shakti Yojana as an enriched version of the scheme for Adolescent Girls being implemented as part of ICDS to improve the nutritional and health status of girls in the age-group of 11-18 years and to equip them with vocational skills so that they can be gainfully engaged; (2000)

⁹ Available at niti.gov.in/planningcommission.gov.in/docs/plans/planrel/fiveyr/10th/volume2/v2_ch2_11.pdf

- Extending Additional Central Assistance of Rs. 375 crore under the Pradhan Mantri Gramodaya Yojana to fill the existing financial gaps for implementing the Special Nutrition Programme of ICDS; (2001)
- Universalisation of ICDS by the end of the Ninth Plan to cover all the 5,652 blocks/wards over the country benefiting 54.3 million children and 10.9 million expectant and nursing mothers; (2001-02)
- Enhancement of honorarium to Anganwadi Workers from Rs. 500 to Rs. 1,000 and to Anganwadi Helpers from Rs. 260 to Rs. 500 per month in recognition of the services being extended by the 2 grassroot level workers; (2002)
- Drafting of a National Policy and Charter for Children to fulfil the Constitutional commitments to children through seeking partnership with the family, community and the non-governmental organisations and thus, ensure protection of children's rights (2002)
- Drafting of a Bill for setting up of a National Commission for Children to safeguard the Rights of Children (2002)

VIII. APPROACH TO THE TENTH PLAN - PATH AHEAD

as the process of empowering women initiated during the Ninth Plan is expected to continue through and beyond the Tenth Plan, there can be no better approach than translating the recently adopted National Policy for Empowerment of Women (2001) into action through –

- Creating an environment, through positive economic and social policies, for the development of women to enable them to realise their full potential;
- Allowing the de-jure and de-facto enjoyment of all human rights and fundamental freedoms by women on par with men in all spheres - political, economic, social, cultural and civil;
- Providing equal access to participation and decision-making for women in social, political and economic life of the nation;
- Ensuring equal access to women to health care, quality education at all levels, career and vocational guidance, employment, equal remuneration, occupational health and safety, social security and public office etc.;
- Strengthening legal systems aimed at the elimination of all forms of discrimination against women;

- Changing societal attitudes and community practices by active participation and involvement of both men and women;
- Mainstreaming a gender perspective into the development process;
- Eliminating discrimination and all forms of violence against women and the girl child; and
- Building and strengthening partnerships with civil society, particularly women's organisations, corporate and private sector agencies.

IX. LEGISLATIVE SUPPORT FOR WOMEN AND CHILDREN

The Protection of Women from Domestic Violence Act, 2005, The Indecent Representation of Women (Prohibition) Act, 1986, The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, and The Prohibition of Child Marriage Act, 2006 are just a few of the special laws pertaining to women and children that are administered by the Ministry of Women and Child Development. Since 1992, India has ratified the UN Convention on the Rights of the Child (UNCRC). The government created the National Policy for Children in 2013 and the National Plan of Action in 2016 as part of its commitment to uphold children's rights. The Protection of Children from Sexual Offences (POCSO) Act of 2012, the Juvenile Justice (Care and Protection) Act of 2015, and The Commissions for Protection of Child Right (CPCR) Act, 2005.¹⁰ Others are following:-

- The Immoral Traffic (Prevention) Act, 1956
- The Dowry Prohibition Act, 1961 (28 of 1961)
- The Indecent Representation of Women (Prohibition) Act, 1986)
- The Commission of Sati (Prevention) Act, 1987 (3 of 1988)
- The Guardians and Wards Act, 1860 (8 of 1890)
- Indian Penal Code, 1860
- The Christian Marriage Act, 1872 (15 of 1872)
- The Indian Evidence Act, 1872 (yet to be reviewed)
- The Married Women's Property Act, 1874 (3 of 1874)
- The Workmen's Compensation Act, 1923
- The Legal Practitioners (Women) Act, 1923

¹⁰ <https://pib.gov.in/Pressreleaseshare.aspx?PRID=1579546>

- The Indian Succession Act, 1925 (39 of 1925)
- The Child Marriage Restraint Act, 1929 (19 of 1929)
- The Payments of Wages Act, 1936
- The Muslim Personal Law (Shariat) Application Act, 1937
- The Factories Act, 1948
- The Minimum Wages Act, 1948
- The Employees' State Insurance Act, 1948
- The Plantation Labour Act, 1951
- The Cinematograph Act, 1952
- The Special Marriage Act, 1954
- The Hindu Marriage Act, 1955 (28 of 1955)
- The Hindu Adoptions & Maintenance Act, 1956
- The Hindu Minority & Guardianship Act, 1956
- The Hindu Succession Act, 1956
- The Maternity Benefit Act, 1961 (53 of 1961)
- The Beedi & Cigar Workers (Conditions of Employment) Act, 1966
- The Foreign Marriage Act, 1969 (33 of 1969)
- The Indian Divorce Act, 1969 (4 of 1969)
- The Medical Termination of Pregnancy Act, 1971 (34 of 1971)
- Code of Criminal Procedure, 1973
- The Bonded Labour System (Abolition) Act, 1976
- The Equal Remuneration Act, 1976
- The Contract Labour (Regulation & Abolition) Act, 1979
- The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979
- The Family Courts Act, 1984
- Juvenile Justice Act, 1986
- The Child Labour (Prohibition & Regulation) Act, 1986

- National Commission for Women Act, 1990 (20 of 1990)
- The Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992
- The Pre-Natal Diagnostic Technique (Regulation and Prevention of Misuse) Act, 1994

X. CONCLUSION

The underlying message is that several things may change with time, but the beautiful longhaired look of the 'true' Indian woman remains un-changed (like the hair oil that is essential for the maintenance of such an identity). Yet, all these factors do not enable the 'Modified Global Indian Woman' to question the system of values that still designates gender-specific qualities, although these have been redefined and regenerated, with the good old hierarchical implications embedded in them. This is due to the changing structure of society, with the increasing number of women earning members in the family, with the enhancement of the purchasing power of women. Modified image of the homebound wife, mother has undergone some very important changes- a process that had already begun, although at an incipient stage in the 1970s. To sum up, Development is a process that all members of a society to the same extent, according to their individual needs. Since women are generally excluded disadvantaged in relation to social and economic resources and decision-making¹¹. The nations and states therefore try to achieve this through constitutional, legal, political and development frameworks. These policies are designed in such a way that they help to channelize the resources to ensure development of both women and men. In spite of these policies women are not able to respond to the development process due to their disadvantaged position that is evident from the statistical data of the country.

¹¹ Ram Ahuja 'Crime and Women' (1987) Rawat Publication, Jaipur